No. 92-342

Supreme Court, U.S.
FILED
JUL 13 1992
OFFICE OF THE CLERK

IN THE

SUPREME COURT

OF THE

UNITED STATES

October Term, 1992

N.L. Neilson, Petitioner

v

Superior Court of California,

(California, real party in interest).

ON WRIT OF CERTIORARI TO THE

SUPERIOR COURT APPELLATE DEPARTMENT

STATE OF CALIFORNIA, COUNTY OF KERN

PETITION FOR WRIT OF CERTIORARI

N.L. Neilson
P.O. Box 715
Mojave, California 93502
Petitioner pro se
(805) 658-2700

QUESTIONS PRESENTED

Whether the Kern County ordinances C019.14.040 and C017.44.060 are unconstitutitionally vague or overbroad and invalid as being repugnant to the Constitution and Laws of the United States.

Whether the ordinances were unconstitutionally applied and the rights of Due Process under the Fifth and Fourteenth Amendments to the United States Constitution were violated.

Whether the items charged were illegal, the ordinances that permit the items were valid and in effect at the time the charges were made and at the time of the trial. C019.06.220, C019.12.020 F., and C019.06.110

Whether a citizen can be deprived of liberty and put in jail on a charge a Jury has found NOT GUILTY.

TABLE OF CONTENTS

Page

Questions Presented i

Table of Authorities iii

Opinions Below v

Jurisdiction vii

Constitutional Provisions Involved ... viii

Statement of the Case 1

Reasons for Granting the Writ 11

I. The decision of the Superior Court Appellate Dept. affirming the judgement of the Municipal Court is in conflict with this Court's decisions. 11

II. This case involves questions of exceptional public importance 18

Conclusion 18

TABLE OF AUTHORITIES

Cases — Page

Connally v. General Construction Co.
(1926) 269 U.S. 385,391
(46 S.Ct. 126,127, 70 L.Ed. 322,328) . 11

Grayned v. City of Rockford (1972)
408 U.S. 104,108-109,
(33 L.ed.2d. 222,227-228,
92 S.Ct. 2294) 12, 13

Kolender v. Lawson (1983)
461 U.S. 352,359, (75 L.Ed.2d. 903,910,
103 S.Ct. 1855) 13

Parachristou v. City of Jacksonville
(1972) 405 U.S. 156,165,
(31 L.Ed.2d 110,117, 92 S.Ct. 839) ... 13

Parker v. Levy (1974) 417 U.S. 733
(41 L.Ed.2d. 439, 94 L.Ed.2d. 439,
94 S.Ct. 2547) 12

U.S. Constitution

U.S. Const. Amend. V ..... passim

U.S. Const. Amend. XIV ..... passim

U.S. Statutes

28 U.S.C. S.1257(a) ..... v, vii

28 U.S.C. S.1651(a) vii

Calif. Const.

Art. I. Sect. 1. ..... viii, 15

Kern Co. Ordinances

C017.04.070 17

C017.28 or 17.28.040 ..... passim

C017.44.060 ..... passim

C019.08.110 i

C019.08.220 ..... passim

C019.12.020 F. i

C019.14.020 ..... passim

C019.14.040 ..... passim

C019.114.030 35

C019.114.065 35

"GUIDE" 27

OPINIONS BELOW

The Supreme Court of California, Case No. S026097, denied the petition for review on April 14, 1992.

Court of Appeal of the State of California, Fifth Appellate District, Case No. F017631, denied the Petition for Writ of Certiorari and/or Mandate on April 9, 1992.

This Court docketed this as Case No. 91-1056 on November 15, 1991. February 24, 1992 cert. denied; pursuant to Rule 13 of this Court the case must go to the Highest State Court for discretionary review first. 28 USCA Sec. 1257 (a) note 19

cont. next page

The opinion of the Superior Court Appellate Department, Case NO. A-1379, dated July 31, 1991, on appeal, review is mandatory not discretionary:

> " - - we are not inclined to labor through his arguments, the ordinances and the evidence in this opinion."
>
> "The judgment is affirmed and the case remanded."

The East Kern Mojave Municipal Court Case No. MM012539 has one charge of C017.28.040 and one charge of C019.14.020 as acquitted and two charges of C017.44.060 and two charges of C019.14.020 as guilty dated January 10, 1991.

JURISDICTION

The judgment of the Superior Court Appellate Department was entered on July 31, 1991. A Petition for Rehearing and Certification to Court of Appeal was filed August 14, 1991, the court did not rule on the petition so the decision of that court was final as of August 30, 1991.

This Court denied review on February 24, 1992.

The California Court of Appeal denied review on April 9, 1992.

The Supreme Court of California denied review on April 14, 1992.

The jurisdiction of this court is invoked under 28 U.S.C. Sections 1257(a) and 1651(a).

CONSTITUTIONAL PROVISIONS INVOLVED

The provisions of the United States Constitution involved in this case are the Due Process Clauses of the Fifth and Fourteenth Amendments and the Equal Protection Clause of the Fourteenth Amendment as made applicable to the states through the Fourteenth Amendment.

> "No State shall make or inforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

U.S. Const. Amend. XIV.

> "- - nor be deprived of life, liberty, or property, without due process of law; - -"

U.S. Const. Amend. V.

> "- - and protecting property - -"

California Constitution Art. I Sect. 1

STATEMENT

This case is about the Building Inspection Department and a Farmer (Petitioner).

The "law" involved is the Kern County Ordinance, the scheme of which is to have them unconstitutionally vague or overbroad.

> C019.14.040 PROHIBITED USES
> All other uses not expressly permitted by sections 19.14.020 and 19.14.030 of this chapter are prohibited - - -.

This requires another Section or ordinance to define what is permitted. The Section or ordinance that defines what is permitted is not allowed as an affirmative defense and a citizen can be found guilty of something that is legally permitted.

For each of the items that is on the Farm there is an ordinance which specifically allows or exempts these items. These items are travel trailers, cargo containers and an airplane. The ordinances that allows or exempts these items were not allowed at the trial.

Petitioner has dealt with the Building and Planning Dept. for over 20 years.

Building Bulletin #15, November 1, 1984 and changed to #8 December 6, 1985 regarding cargo containers was written at Petitioner's request. "- -including cargo containers if incidental and accessory to a permitted use." in C019.12.020 F and "- -ridging, leveling- -" for agriculture in C017.28.040 or their previous numbers were written into the ordinance at Petitioner's request. "Storage of- -motor vehicles, trailers, airplanes, boats- -" now C019.08.220, was allready in the ordinance. The exemption for the travel trailer for temporary occupancy was in their "Guide" and also the California Constitution Article I Section 1 "- -and protecting property- -".

On March 22, 1989 Petitioner checked with the Building Department in Bakersfield regarding planned move to Farm later that year, everything was OK, got copies of the current ordinances.

Petitioner finished moving onto Farm in December of 1989.

On January 11, 1990 a Building Inspector, Stuart Bone, from the Mojave office came to the Farm. On January 18, 1990 Petitioner went to the Building Dept. in Bakersfield. There were NO PERMITS required for grading on the Farm and the ordinances which ALLOWED or EXEMPTED the items on the Farm were still valid and required no permits.

//

For the June 1990 elections Petitioner:

1. Campaigned against the incumbent Sheriff John Smith and for Carl Sparks, it appeared a few Sheriff Officers were acting as personal agents for some of the Board of Supervisors. Carl Sparks was elected as Sheriff and changed the commanders of the Sheriff sub-stations in ALL of Kern County. Petitioner has had no problem with any law inforcement agency anywhere other than a few traffic tickets.

2. Put forth the idea that the head of the Building and Planning Department should be an elected position and responsible to the voters rather than appointed by the Board of Supervisors and acting at their pleasure. (In May of 1992 the Kern County Grand Jury strongly recommended restoration of a Planning Commission.)

3. Put forth Petitioner's intent to run for Supervisor of the Second District in the next election and bring the Constitution of the United States to Kern County.

The political power structure is such in Kern County that there is no elected position between the Board of Supervisors and the Building Department so it can be it's direct enforcememt arm for political or other reasons.

///

Three months after the June elections on September 17, 1990, on United States Constitution Day the District Supervisor of the Building Inspection Depart. for the

Mojave area Dudley Dunham in command, along with Building Inspector William Thresher and three Sheriff Officers as back-ups came to Petitioner's Farm, no warrant, untied orange cord across entrance to Farm and entered, spreading out in different directions.

Building Inspector Thresher confronted Petitioner, made accusations of illegal grading, drugs, and others. Petitioner showed Bldg. Insp. Thresher documents regarding ownership to Farm property, the ordinances on grading (C017.08.200) cargo containers (C019.12.020) and others. Bldg. Insp. Thresher became very abusive and said: "You're not charged with those ordinances.", "You're involved with drugs, nobody farms out here." and "We're going to put you in jail." Petitioner called a Sheriff Officer over to prevent Bldg. Insp. Thresher from getting further out of line. Petitioner appreciated the Sheriff Officers' presence.

Petitioner was given Notice to Appear No. 0904 which had three violations:

K.C. CODE 17.28
K.C. CODE 19.02.060
CAL.STATE CODE-Title 25

and no explanation of the charges on it.

After the arraignment on October 17, 1990 the court docket had:

1. CO 17.28
2. CO 19.02.060
3. CO 17.44.060
4. CO 17.28.040
5. CO 17.44.060
6. CO 19.16020

There were pretrials on November 9 and 29, 1990, and a jury trial was set for December 18, 1990, the morning of which Petitioner was given a copy of the formal complaint prepared by the DDA's Office and dated December 17, 1990 which had:

1. CO 17.44.060
2. CO 17.44.060
3. CO 17.28.040
4. CO 19.14.020
5. CO 19.14.020
6. CO 19.14.020

The previous documents filed with the court had been prepared by the Bldg. Insp.. A new trial date was set for Jan. 8, 1991.

At the trial Bldg. Insp. Dunham's "interpretation" of the law: "You were not charged with the other ordinances so they don't apply." took precedence.

No ordinance other than those charged against Petitioner was allowed and the "interpretation" was even carried into the DDA's brief on appeal:

> "- -Section 19.08.220 was never a charge faced by defendant and was not a trial issue"

Due Process was not a trial issue either.

This was the newly elected judge's first jury trial after 20 years as a DDA, he did not have the ordinance book or did not aprise himself of same. The real opposition at the "trial" came from the judge.

The exemption for the charge C017.28 (illegal grading) was in C017.28.040 B. 10. (a subsection of the ordinance charged), was allowed as an affirmative defense by the DDA and Petitioner was found NOT GUILTY by the Jury on that charge. This was the main charge, the only charge carried from the

Notice to Appear (given on U.S. Const. Day) to trial.

This Court has the document which Petitioner carried in his pocket while being deprived of liberty in jail for ten days on CHARGES CO 17.28*01, the charge the Jury found NOT GUILTY. That document was submitted with prior Petition, this Court's no. 91-1056.

The judge did not allow as an affirmative defense or include in the instructions to the jury for the other charges:

For the airplane 19.08.220;

For the cargo containers 19.12.020 F;

For the trailers 17.44.060 B., C.,

19.08.220, Conflict of Laws,

Calif. Const Art. 1 Sect 1.

Petitioner indicated to the Bldg. Insp. and the DDA that their catch-all ordinance CO19.14.040 PROHIBITED USES was unconstitutional before arraignment, hence Petitioner was charged, tried, and convicted of CO19.14.020 PERMITTED USES.

The jury instructions prepared by the DDA, the rough draft may have been prepared by the Bldg. Insp., was read by the judge verbatim, mistakes included.

DIRECTED VERDICTS

From the Superior Court Appellate Department on appeal where review is mandatory:

> " - - we are not inclined to labor through his arguments, the ordinances and the evidence in this opinion."

All of the items on the Farm are legal.

REASONS FOR GRANTING THE WRIT

I. The Kern County ordinances 19.14.040 and 17.44.060 are unconstitutionally vague and overbroad.

Due Process was not followed.

//

The "void for vagueness" doctrine states that a criminal statute violates due process of law where its statement of the standard of guilt is so indefinite that it fails to give adequate notice of the conduct that is prohibited.

In the seminal case of Connally v. General Construction Co. (1926) 269 U.S. 385,391, (46 S.Ct. 126,127, 70 L.Ed. 322,328), this Court described the vagueness problem in the following terms:

> "That the terms of a penal statute creating a new offense must be sufficiently explicit to inform those who are subject to it what conduct on their part will render them liable to its penalties is a well-recognized requirement, consonant alike with ordinary notions of fair play and the settled rules of law; and a statute which either forbids or requires the doing of an act in terms so vague that

> men of common intelligence must necessarily guess at its meaning and differ as to its application violates the first essential of due process of law."

This Court has continued to follow the standard announced in Connally, and has explained its rationale further in Grayned v. City of Rockford (1972) 408 U.S 104,108-109, (33 L.Ed.2d 222,227-228, 92 S.Ct. 2294):

> "First, because we assume that man is free to steer between lawful and unlawful conduct, we insist that laws give a person of ordinary intelligence a reasonable opportunity to know what is prohibited, so that he may act accordingly ....
>
> Second, if arbitrary and discriminatory enforcement is to be prevented, laws must provide explicit standards for those who apply them.
>
> A vague law impermissibly delegates basic policy matters to policemen, judges, and juries for evaluation on an ad hoc and subjective basis with the attendant dangers of arbitrary and discriminatory application."

This principle is derived from the Fifth and Fourteenth Amendments of the United States Constitution, see Parker v. Levy (1974) 417 U.S. 733 (41 L.Ed.2d 439, 94 L.Ed.2d 439, 94 S.Ct. 2547)

This applies to local ordinances also.

Vagueness and overbreadth have traditionally been viewed as "logically related and similar doctrines.", from Kolender v. Lawson (1983) 461 U.S. 352,359, (75 L.Ed.2d 903.910, 103 S.Ct. 1855).

The two doctrines diverge in that a statute or ordinance that is clear and precise may nevertheless be unconstitutionally "over broad" if "in its reach it prohibits constitutionally protected conduct." (Grayned, supra, 408 U.S. at 114).

> An enactment is over broad if it "casts a net" so large as to catch all possible offenders and in the process catches many innocent citizens as well.

See (Parachristou v. City of Jacksonville (1972) 405 U.S. 156.165, (31 L.Ed.2d 110,117, 92 S.Ct. 839).

C019.14.040 PROHIBITED USES
All other uses not expressly permitted by sections 19.14.020 and 19.14.030 of this chapter are prohibited in the A-1 District, including final tract map residential subdivisions.

A law is to cover one subject and be specific. This "law" covers all uses. To have a law making all uses illegal unless it is specifically permitted is giving a club to the ignorant.

If this lack of knowledge is from not having the ordinances which expressly permits uses that are incidental and accessory to the main permitted use, or the inability to comprehend them, or the lack of inclination to labor through them, this PROHIBITED USES "law" will be unconstitutionally applied.

This ordinance is definitely vague and overbroad and repugnant to the United States Constitution.

C017.44.060 Unauthorized use.
C. - - Exception: - - recreational vehicles may be granted temporary approval by the building official for construction purposes when located on construction sites on which permits to construct have been issued. - - -

The "permits to construct" are permit(s) for the construction. The "construction" for the Farm is grading or leveling, which does not require a permit, see C017.28:

C017.28.040 Permits required
B. Exempted Work
10. Accepted agricultural activities, including - - ridging, leveling, - -

Petitioner had this sub-section included in the Kern County Ordinance, that is written, approved and enacted.

There are no permits required for the grading, that is the "construction" on the Farm.

The purpose for the temporary occupancy is for protecting property, (equipment) on the construction site (Farm).

The California Constitution Art. I Sect. 1 "- - and protecting property - -." permits this.

Any "interpretation" other than this violates the Equal Protection Clause of the Fourteenth Amendment of the Utited States Constitution. A citizen that is doing construction that required and has a permit can protect his property but a citizen doing construction (grading for a Farm) that does not require a permit cannot protect his property.

C017.44.060 C. "- - <u>on which permits to construct have been issued.</u> - -"

is unconstitutionally overbroad or has been unconstitutionally applied.

For the charges that items were stored on the property illegally there is an ordinance on storage:

> C019.08.220 STORAGE IN YARDS
> "- -, no portion of any required front yard or side yard- -shall be used for the permanent storage- - <u>of motor vehicles, trailers, airplanes, boats, parts of the foregoing</u>,- -"

All of the items "stored" on the Farm are more than four (4) times the legally required distance from the property line.

THEY ARE LEGAL

The ordinances have been unconstitutionally applied.

The procedures in C017.04.070 and C019.114.065 were not followed. They have a NOTICE OF VIOLATION subject to appeal which can eventually go to the Board of Supervisors for a public hearing.

If there is a procedure in the ordinance that is not followed that is a violation of Due Process.

II. This case involves questions of exceptional public importance.

Citizens are bound by these ordinances the same as state laws, their constitutionallity and the way they are interpreted and applied must also be in compliance with the Constitution of the United States.

Kern County has been and will continue to use these ordinances unconstitutionally until directed to do otherwise.

Conclusion

For the foregoing reasons, it is respectfully requested that a writ of certiorari be granted.

Respectfully submitted,

N.L. Neilson
P.O. Box 715
Mojave, California
93502
Petitioner pro se

Dated: July 13, 1992

APPENDIX

FILED APR 14, 1992

No. CA 5 FO17631-SO26Ø97

IN THE SUPREME COURT OF THE STATE OF CALIFORNIA

IN BANK

Application for stay and petition for review DENIED.

LUCAS
Chief Justice

FILED APR 9, 1992

No. FO17631

COURT OF APPEAL, STATE OF CALIFORNIA

FIFTH APPELLATE DISTRICT

By the Court:*

The "PETITION FOR WRIT OF CERTIORARI AND/OR MANDATE" is denied.

<Vartabedian> Acting P.J.

*Before: Ardiaz, Acting P.J.,

Vartabedian, J. and Harris, J.

THE APPELLATE DEPARTMENT OF THE

SUPERIOR COURT

COUNTY OF KERN, STATE OF CALIFORNIA

THE PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff and Respondent,

vs.

N. L. NEILSON,

Defendant and Appellant.

No. A-1379

Trial Court No. MM012539A

OPINION

Appeal from the East Kern Municipal Court, the Honorable John Quinlen, Judge Presiding.

Counsel for Appellant, N. L. Neilson, in pro per; counsel for Respondent, Edward R. Jagels, District Attorney, by John D. Oglesby, deputy.

NATURE OF THE CASE

Appellant was convicted of two violations of Kern County Ordinance 17.44.060 (improper placement or use of a travel trailer) and two violations of

Ordinance 17.14.020 (improper placement of cargo containers/airplane on property zoned A-1) and acquitted of a violation of Ordinance 17.28.040 (grading without a permit) and a violation of Ordinance 19.14.020 (improper placement of grading equipment on property zoned A-1), following a jury trial.

STATEMENTS OF FACTS

Appelant owned fifty acres of real property, zoned A-1. On September 17, 1990, an inspection of the property was conducted by William Thresher, in his capacity as a building inspector and code enforcement officer for the County of Kern. He found, among other things, two travel trailers, several large cargo containers (one of which contained a Jaguar XKE) and a airplane. Appellant did not have a permit for any of these items.

ISSUE PRESENTED

The main issue argued by Appellant is the constitutionality of ordinances.

DISCUSSION

Appellant contends that the ordinances are unconstitutional due to vagueness. He cites a number of authorities standing for the general principle that laws that do not clearly define prohibited conduct cannot be enforced. We have no quarrel with those authorities, but find that they are not applicable to the present case. Furthermore, given the nature of the arguments advanced by Appellant, i.e., he is prepared to fasten a plow to the XKE and use it for farming if he decides to do so, we are not inclined to labor through his arguments, the ordinances and the evidence in this opinion.

CONCLUSION

The judgment is affirmed and the case remanded.

Dated: July 31, 1991.

STUART, J.

WE CONCUR: BACA, P.J.

RANDALL, J.

JMS:js

EAST KERN MUNICIPAL COURT

STATE OF CALIFORNIA

COUNTY OF KERN

THE PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff and Respondent,

vs.

N. L. NEILSON,

Defendant and Appellant.

Trial Court No. MMO12539A

The court docket has:

1	CO 17.44.060	FOUND GUILTY
2	CO 17.44.060	FOUND GUILTY
3	CO 17.28.040	ACQUITTED
4	CO 19.14.020	FOUND GUILTY
5	CO 19.14.020	FOUND GUILTY
6	CO 19.14.020	ACQUITTED

Petitioner has no formal Judgment Document and has not seen one in the court file except the ORDER GRANTING PROBATION AND TERMS OF PROBATION, a form with blanks filled in, the filled in parts are as follows underlined:

ORDER GRANTING PROBATION

AND TERMS OF PROBATION

DEFENDANTS NAME Norman Lee Neilson

CASE NO MM012539A

DATE 1-10-90 (should be 91)

JUDGE: Quinlen CHARGES CO 17.28

SECTION 1: GENERAL

TCORG X ORIGINAL TERMS AND CONDITIONS OF PROBATION

TCPRG X PROBATION GRANTED AS TO COUNT 1

TCPG X IMPOSITION OF SENTENCE SUSPENDED AND DEFENDANT PLACED ON PROBATION FOR A PERIOD OF 3 YRS; 0 MOS; 0 DAYS. TYPE OF PROBATION: X B. COURT

TCRFV X REFRAIN FROM FURTHER VIOLATIONS OF THE LAW

SECTION 3: JAIL TIME AS TO COUNT(S)

TCDIJ X DEFENDANT TO SERVE 15 DAYS IN CUSTODY AS TO COUNT 1.

SECTION 4: FINES AS TO COUNT(S)

TCINS X DEFENDANT ASSESSED ADDITIONAL ACCOUNTS RECEIVABLE FEE OF $ 30.00. TOTAL FINES AND ASSESSMENT(S) OF $1255.00 TO BE

PAID IN INSTALLMENTS OF $1255.00 ON 4-10-91

- -.

SECTION 8: RESTITUTION AS TO COUNT(S)

TCCR X DEFENDANT TO MAKE RESTITUTION FOR DAMAGES AS TO COUNT(S) 1.

X B. IN THE AMOUNT OF $330.00

AND IN A MANNER TO BE DETERMINED BY THE PROBATION OFFICER AND ORDERED BY THE COURT. DEFENDANT ADVISED RE: CERVANTEZ.

TCRP X DEFENDANT ORDERED TO REPORT TO PROBATION OFFICER X WITHIN 5 DAYS OF RELEASE FROM CUSTODY.

Pay Building Department within 6 months. 90 days to comply with Building Department Codes.

I HAVE READ AND UNDERSTAND THE TERMS OF PROBATION AND ORDER SET FORTH ABOVE AND UNDERSTAND THE CONSEQUENCES OF A VIOLATION OF PROBATION. I HEREBY ACKNOWLEDGE RECEIPT OF A COPY THEREOF, THIS 10 DAY OF JAN 1991.

X P.O. Box 715 X N.L. Neilson

X Mojave, Ca 93502 D.O.B. 3-20-44

17.44.060 Unauthorized Use

Outside a mobilehome park, travel-trailer park, temporary trailer park, recreational trailer park, incidental camping area or tent camp on land in his possession within the unincorporated area of the County of Kern, it is unlawful for any person to place or allow to be placed, or use, or occupy or knowingly permit to be used for occupancy:

A. Dependant mobilehomes.

Exception: Dependant mobilehomes may be placed in dead storage, where allowed under the Kern County zoning ordinance, when located on private property on which there is an existing conforming use established per provisions of this chapter.

B. Recreational vehicles.

Exception: (1)Recreational vehicles may be placed in dead storage, where allowed under the Kern County zoning ordinance, when located on private property on which

there is an existing conforming use established. (2)Recreational vehicles may be allowed for private recreational use when approved by the board of zoning adjustment or the board of supervisors.

C. A mobilehome or recreational vehicle used for industrial, professional or commercial purposes or occupancy.

Exception: Mobilehomes or recreational vehicles may be granted temporary approval by the building official for construction purposes when located on construction sites on which permits to construct have been issued. Such approval shall be terminated upon completion of construction and the vehicles removed.

(There are also D. thru J.)

19.14.020 PERMITTED USES

The following uses and all others determined to be similar to these uses pursuant to Sections 19.08.030 through 19.08.080 of this title are permitted in the A-1 District:

A. AGRICULTURAL USES

1. Growing and Harvesting Crops

-- Berry crops

-- Bush crops

-- Christmas trees

-- Field crops, dryland

-- Field crops, irrigated

-- Flowers - - -, wholesale only

-- Greenhouse, wholesale only

-- Nursery, plant, wholesale only

-- Nut and fruit trees

-- Timber

-- Vegetables

-- Vine crops

2. Breeding and Raising Animals

-- (there are ten listings)

B. RESIDENTIAL USES

1. Manufactured home, mobilehome, or recreational vehicle, temporary, during construction of a single-family home pursuant to Section 19.14.130 of this chapter.

2. Manufactured home, pursuant to Section 19.14.130G of this chapter.

3. Residential accessory structures.

4. Residential facility, serving six (6) or fewer persons.

5. Single-family dwelling, with a width greater than sixteen (16) feet.

(There are also C. thru F.)

C017.04.070 Enforcemant authority.

A. The building official shall interpret, administer and enforce this title excepting the Kern County code, and for such purposes, he may appoint deputies and otherwise deligate the authority herein provided.

B. Any authority of the building official involving discretion or interpretation of this title shall be exercised in a reasonable manner.

C. Any decision of the building official relating to interpretation of this title, or to alternate materials or method of construction as mentioned in Section 17.04.080 of this chapter, or to tests as proof of compliance or equivelency as mentioned in Section 17.04.090, or to modifications as mentioned in Section 17.04.100, shall be subject to appeal to the board of building appeals.

C017.08.200 Permits required.

(~~new~~ old code No. for C017.28 see below)

C017.28 GRADING CODE

C017.28.040 Permits required

A. No person shall do any grading or cause the same to be done without first having obtained a grading permit from the Building Official except as specified in subsections (b) of this section.

B. Exempted Work:

10. Accepted agricultural activities, including routine mowing, plowing, ditching, harrowing, ridging, leveling, and other operations necessary to prepare a field or crop for production.

C017.44.060 Unauthorized Use

(see A8 supra)

19.08.110 DETERMINATION OF ACCESSORY USES AND STRUCTURES

If any question arises as whether any particular use or structure is accessory to the primary use or structure in question, it shall be resolved based on the definitions of accessory building or structure or accessory use found in chapter 19.04 of this title and the following criteria:

A. Nature and size of the primary use or structure.

B. Nature and size of the accessory use or structure.

C. Relationship of the accessory use or structure to the primary use or structure

19.08.220 STORAGE IN YARDS

Except as otherwise provided in Subsection (G) of Section 19.82.090 of this title, no portion of any required front yard or side yard on the street side of a corner lot

shall be used for the permanant storage, defined as any forty-eight hour period, of motor vehicles, trailers, airplanes, boats, parts of any of the foregoing, except that one (1) recreational vehicle designed for human occupancy or one (1) boat may be so stored, provided that the recreational vehicle or boat is fully operational and is currently licensed and/or registered. Additionally, no such areas shall be utilized for the storage of scrap metals or other scrap materials, machinery, appliances, furniture, or equipment or parts thereof, except for building materials and equipment for the use on the premises stored thereon during the time a valid permit is in effect for construction on the premises.

C019.12.020 PERMITTED USES

The following uses and all others determined to be similar to these uses pursuant to Sections 19.08.030 through

19.08.080 of this title are permitted in the A District:

A. AGRICULTURAL USES

--

F. MISCELLANEOUS USES

-- Accessory buildings, including cargo containers, if incidental and accessory to a permitted use.

--

--

CO19.14.020 PERMITTED USES

(see A10 supra)

19.14.040 PROHIBITED USES

All other uses not expressly permitted by sections 19.14.020 and 19.14.030 of this chapter are prohibited in the A-1 District, including final tract map residential subdivisions.

19.114.030 INSPECTION

The Building Official may upon the

presentation of proper credentials to the occupant or owner enter any premises, building, or structure at any reasonable time for the purpose of investigating and inspecting said premises, building, or structure to determine whether the same are being used in compliance with the provisins of this title. If admission or entry is refused, the Building Official may apply to the District Attorney to obtain an inspection warrant.

19.114.065 NOTICE OF ZONING VIOLATIONS

Whenever the Director of Planning and Developement Services or his designee has knowledge of a violation of Title 19 of this code, he may cause a notice of intent to record a notice of violation to be mailed by certified mail to the then current owner of record of the property. The notice shall state that within thirty (30) days of the date of the notice, the owner may request a meeting with the

Director of the Department of Planning and Developement Services or his designee to present evidence that a violation does not exist. The notice shall further describe the property and violation in detail. (There are three more paragraphs.)

California Constitution Art. 1 Sect. 1

All people are by nature free and independent and have inalienable rights. Among these are enjoying and defending life and liberty, acquiring, possessing, and protecting property, and pursuing and obtaining safety, happiness, and privacy.

DEPARTMENT OF
PLANNING AND DEVELOPEMENT SERVICES
A GUIDE TO BUILDING
CONSTRUCTION AND
PERMIT PROCEDURES
or "GUIDE"

(10) MAY MOBILEHOMES BE USED DURING CONSTRUCTION OF A HOUSE

It is unlawful to install a mobilehome for use as a temporary dwelling during construction of a residence without first obtaining the necessary zoning clearance and permits. No such mobilehome permit may be issued until all required zoning approval and permits for the main use (structure) on the site have been obtained. Permits for the residence and installation of the mobilehome shall be obtained simultaneously. Recreational vehicles and travel trailers may also be utilized for temporary housing with no utilities tied to unit, but no additional permit will be required by Building Inspection. For more information contact your nearest County Inspection Division office.